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Boudreau, Paul E

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To: Burger, David
Subject: RE: NYTimes 2/21/06 article on Germany/Macedonia, Alleged Renditions, Detentions

RELEASED IN FULL

From: Orlansky, Michael D
Sent: Tuesday, February 21, 2006 11:08 AM
To: Milovanovic, Gillian A; Wohlers, Paul; Hubler, Stephen A; Clark, Jeanne L
Cc: Oakley, Carol V
Subject: NYTimes 2/21/06 article on Germany/Macedonia, Alleged Renditions, Detentions

If you haven't yet seen, this article from today's New York Times discusses the el-Masri case in some detail, with considerable content on Macedonia and quotes from Macedonian officials off- and on-the-record (including former PM Hari Kostov). Balkans-based correspondent Nick Wood contributed to the story.

A caption below a photo of Mr. el-Masri in the Times says *Khaled el-Masri says he is "90 percent" certain he was interrogated by a German police official in an American prison in Kabul.*

Mike

The New York Times

Germany Weighs If It Played Role In Seizure By U.S.

Tuesday, February 21, 2006

By Don Van Natta Jr.

This article was reported by Don Van Natta Jr., Souad Mekhennet, and Nicholas Wood, and was written by Mr. Van Natta.

MUNICH, Feb. 20 - For more than a year, the German government has criticized the United States for its role in the abduction of a German man who was taken to an American prison in Kabul, Afghanistan, where he said he was held and tortured for five months after being mistaken for a terrorism suspect.

German officials said they knew nothing about the man's abduction and have repeatedly pressed Washington for information about the case, which has set off outrage here. At a meeting in Berlin last December, Chancellor Angela Merkel demanded an explanation from Secretary of State Condoleezza Rice over the incident.

But on Monday in Neu-Ulm near Munich, the police and prosecutors opened an investigation into whether Germany served as a silent partner of the United States in the abduction of the man, Khaled el-Masri, a German citizen of Arab descent who was arrested Dec. 31, 2003, in Macedonia before being flown to the Kabul prison.

The action came after a two-and-a-half-hour meeting at police headquarters in which Mr. Masri told the police that he was "90 percent" certain that a senior German police official was the interrogator who had visited him three times inside the prison in Kabul but had identified himself only as "Sam." The German prosecutors said Monday that they were also investigating whether the German Embassy in Skopje, Macedonia, had been

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notified about Mr. Masri's kidnapping within days of his capture there, but then had done nothing to try to help him.

Mr. Masri's case has come to symbolize the C.I.A. practice known as extraordinary rendition, in which terror suspects are sent to be interrogated in other countries where torture is commonly used. In broadening its criminal inquiry into the abduction of Mr. Masri to the activities of its own government, German prosecutors are trying to determine whether the German government worked secretly with the United States in the practice.

"I feel deceived and betrayed by my own country," Mr. Masri, a 42-year-old unemployed car salesman from Neu-Ulm, said in an interview.

The German police official identified as "Sam" denied that he had visited Mr. Masri in Afghanistan and said he was "on holiday" at the time in Germany, but that he could not remember exactly where. The man was present on Monday at the police station, where Mr. Masri picked him out of a 10-person lineup. After speaking with him, Mr. Masri said that his voice was similar but that his hair style was different.

Martin Hofmann, a prosecutor in Munich, said Monday that his office would not "assume that this man is Sam" but would "go forward with our investigation."

A senior German official familiar with the case said that Mr. Masri was "at best mistaken" and that the police official "cannot be Sam."

The New York Times is withholding the official's name at the request of Germany's intelligence services because he often does undercover intelligence work. He frequently gets "sensitive" assignments and helps clean up "dirty work" for the German foreign intelligence service, said one of his longtime colleagues, who spoke on condition of anonymity.

A senior Macedonian government official who was directly involved in Mr. Masri's detention told The Times that not long after Mr. Masri's capture, Macedonian officials notified the German Embassy in Skopje. C.I.A. officers in Macedonia conducted the interrogation of Mr. Masri, according to Macedonian officials.

August Stern, the Munich-based federal prosecutor who is leading Germany's criminal investigation of Mr. Masri's kidnapping, said his investigators were trying to determine whether the German Embassy had been told about Mr. Masri's capture, and then sent a German agent to the American prison in Kabul to talk with him. Mr. Stern and other senior police officers and prosecutors said they would try to interview the officials in the embassy in Skopje in coming weeks.

August Hanning, secretary of state for the Ministry of the Interior, denied in an interview that any member of Germany's secret services had visited Mr. Masri while he was held captive. "He has never been to Afghanistan," Mr. Hanning said of the German police official.

Two senior German officials, who spoke on condition of anonymity because of the case's sensitive nature, denied that Germany's Embassy had been told about Mr. Masri's capture. "The German Embassy in Skopje was not informed by Macedonian authorities while German citizen el-Masri was in custody in Macedonia," a Foreign Office spokesman said. Another official said Germany did not learn about Mr. Masri's detention until May 31, 2004, when the American ambassador to Germany at the time, Daniel Coats, informed German officials about Mr. Masri's capture and eventual release.

"According to our investigation, I am convinced that German officials did not have any knowledge before his release," the official said.

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Later this week, the German government is expected to turn over a report to Parliament about Mr. Masri's case.

Meanwhile, investigators at the Council of Europe, led by Dick Marty, a Swiss lawmaker, are looking into whether there was quiet cooperation between the C.I.A. and its counterparts in European countries, including Germany, Italy and Sweden, where suspected terrorists were kidnapped and sent to third countries for interrogation.

In Italy, the authorities in June charged 23 C.I.A. agents with the abduction of a terrorism suspect from the streets of Milan. Italian officials insist that they did not know about the procedure, but some elected officials in Italy said the Americans must have tipped off their counterparts in the Italian intelligence agency.

European officials have been sharply critical of the C.I.A.'s rendition program. In particular, German officials have rebuked the United States for playing a role in the abduction of one of their citizens and then transporting him to Afghanistan on a chartered C.I.A. plane.

"I have no explanation for the whole case," a senior German official said. "To bring such a man like el-Masri from Europe to Afghanistan and to ask him some questions and six months later, the explanation is that it's a terrible error is not very convincing. To me there are still a lot of questions."

Manfred R. Gnjidic, Mr. Masri's lawyer, said he is convinced that Germany "stood by like a little school boy, watching what was going on with my client and doing nothing."

After more than five months in captivity, the United States released Mr. Masri without filing charges. His case was first disclosed in The Times in January 2005.

At the meeting last December in Berlin between the German chancellor and Ms. Rice, the kidnapping of Mr. Masri was discussed privately, but the two leaders seemed to disagree about the substance of that conversation afterward.

Ms. Merkel said the Bush administration had admitted that it had mistakenly abducted Mr. Masri. But Ms. Rice declined to discuss with reporters anything about the case. She said only that she had pledged to Ms. Merkel, "When and if mistakes are made, we work very hard and as quickly as possible to rectify them."

In Washington, a senior State Department official said Monday that the department would not comment on Mr. Masri's case, noting that it was a matter of litigation in both Germany and the United States. In late 2003, Mr. Masri left his family in Ulm for a trip to Macedonia. Macedonian and German officials said he was arrested at a border checkpoint on Dec. 31, 2003, because his name was on an Interpol terror watch list. But they said the name referred to another Khaled el-Masri.

Mr. Masri was then held in a hotel in Macedonia for several weeks, where he was questioned by the C.I.A., according to senior Macedonian and American officials. A senior Macedonian official said the German Embassy was notified about Mr. Masri within days of his capture. "Unofficially, they knew," the official said of the Germans.

A C.I.A. spokesman declined to comment.

Two senior Macedonian officials said the Americans had asked to have Mr. Masri detained in Macedonia for 23 days. "We consider the Americans as our partners," a senior Macedonian official said. "We cannot refuse them."

Mr. Masri said he had pleaded with his captors to let him go. "Call the German Embassy," Mr. Masri said he had repeatedly told them. "I'm a German citizen. Please tell them I am here!"

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"They don't want to talk to you," he said one of his captors had replied.

In a recent interview, Mr. Masri said: "I thought it was strange that they kept telling me the Germans didn't care about me. Now I know why they said that - because it was true."

At the hotel, Mr. Masri said he had been asked whether he was a member of Al Qaeda. But he was struck by the many questions he was asked about his time in Germany. He said the questions had led him to suspect that the Germans were cooperating with the Macedonians.

A German official disputed that assertion, saying Germany often shared information with their American counterparts about suspected terrorists. But the official acknowledged that the German police had not considered Mr. Masri to be an "important" suspect.

Publicly, Macedonia has denied that Mr. Masri was held illegally. "There is nothing the ministry has done illegally," Hari Kostiv, the minister of interior at the time and later the prime minister, said in an interview. "The man is alive and back home with his family. Somebody made a mistake. That somebody is not Macedonia."

By late January 2004, Mr. Masri was sent to Afghanistan, where he said he was held and beaten over the next five months.

For Mr. Masri, one of the biggest mysteries was the identity of the interrogator who identified himself as Sam, and who spoke fluent German. He visited three times during Mr. Masri's final month at the Kabul jail.

During the first meeting, Mr. Masri said he had asked the man if he was from Germany, but the man declined to answer. Mr. Masri said he had asked him, "Do the Germans know I'm here?"

"He said he did not want to answer," Mr. Masri said. "I asked him if my wife knew I was there. Sam said she doesn't know. He then said, I shouldn't ask questions, I should only answer them."

During their second meeting, the man was no longer belligerent, Mr. Masri said, bringing him cookies, chocolates and a copy of the German newsmagazine Focus. The man also asked if Mr. Masri wanted "anything from Germany."

"I said, 'Nothing, thank you,'" Mr. Masri said.

In their last meeting, a week before Mr. Masri's release, the man told him that he would be returning home soon. The last time Mr. Masri saw Sam, the interrogator was speaking with a man who he believed was an American. Soon afterward, Mr. Masri was released.

On Dec. 12, 2005, Mr. Gnjidic, the lawyer for Mr. Masri, received an e-mail message from a German journalist named Frank Kruger, who suggested that Sam might be a German police official. Earlier this month, Mr. Gnjidic said he had obtained a videotape of the police official that convinced Mr. Masri that he was Sam. On Monday, after meeting the man at police headquarters, Mr. Masri said he was 90 percent certain that the police official was Sam.

"The man was very nervous, and he could not look at me into my eyes," Mr. Masri said. "The hair is different, but the voice sounded very similar."

"For me, it is very important that we know who this man was," he said.

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Mr. Gnjidic said he found it hard to believe that other than the prosecutors in Munich, no one in the German government has sought Mr. Masri's testimony about his ordeal. "The scandal for me is that the Germans did nothing when they heard a German had been captured," he said. "They should have protested very hard and tried to stop this."

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